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L.L.P.
20333 SH 249
SUITE 600
HOUSTON TX 77070**

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DEC 30 2008

OFFICE OF PETITIONS

In re Application of :
Michael Kenoyer et al :
Application No. 10/814,364 :
Filed: March 31, 2004 :
Attorney Docket No. 199-0042US-C2 :

**CORRECTED DECISION
ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2006, to revive the above-identified application.

The petition decision mailed September 30, 2008 is **VACATED**.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 13, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the date of abandonment of this application is September 14, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that

the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The form PTO/SB/64 indicates that the response submitted with the instant petition is in the form of a continuation application; however, the papers filed with the instant petition and purporting to be a continuing application do not constitute a complete application within the meaning of 37 CFR § 1.53(b).

37 CFR § 1.53(b) states, in pertinent part:

“Application filing requirements – Nonprovisional application. The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. § 112 containing a description pursuant by § 1.71 and at least one claim pursuant to § 1.75, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office.

As such, petitioner will not obtain the desired copendency of applications until papers meeting the minimum requirements of 37 CFR § 1.53(b) to obtain a filing date are received by the Office.

Application number 11/611,014 has been assigned to the papers accompanying the instant petition. Any papers attempting to comply with 37 CFR § 1.53(b) should be addressed to the ‘014’ application. Any reply to the instant decision in the form of a renewed petition should be directed to parent file 10/814,364.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

A handwritten signature in black ink, appearing to read 'Carl Friedman', with a long, sweeping horizontal line extending to the right.

Carl Friedman
Petitions Examiner
Office of Petitions